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Opinion • Commentary

39 Lashes

Washington's Spy Problem

DEFENSE SECRETARY Caspar W. Weinberger says the men recently caught spying for the Soviet Union ought to be shot. And angry congressmen vying with each other to introduce laws restoring the death penalty for espionage are expressing their frustration at being unable to apply it to those already in custody.

There is nothing new in all this, however. George Washington and the Continental Congress had the

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same problem during the first year of the American Revolution.

Toward the end of September, 1775, General Nathanael Greene sought a private meeting with General Washington at his headquarters at Cambridge, outside Boston. Greene commanded the Rhode Island troops that were part of the rag-tag colonial army that had besieged the British in Boston since the battles of Lexington and Concord five months before.

As soon as Washington had dismissed his aides, Greene introduced a civilian he had in tow, a prosperous Newport baker named Godfrey Wenwood, who had brought a mysterious communication with him. Washington was puzzled by the document. Written in unintelligible clusters of characters that were obviously intended as a code, it was addressed to an officer on the staff of General Thomas Gage, the British commander.

Wenwood told Washington that about two months before, a lady of easy virtue whom he had known in Boston had unexpectedly called upon him in Newport. She asked him to deliver a letter to Captain James Wallace of the British frigate Rose. Surprised, the baker said he had questioned her about it and was told a friend in Cambridge had given her the letter so it could be transmitted to Boston. Who was this friend? She declined to say.

Fearing that he was being involved in a Tory plot, Wenwood stalled and the woman, growing weary of the delay, left the letter with him. The uneasy baker showed the letter to a friend who unhesitatingly broke the seal — and their worst fears were confirmed. The letter was addressed to "Major Cane in Boston on his magisty's sarvice" and was in cipher. They turned it over to the Rhode Island authorities who sent Wenwood to see General Greene.

Wenwood gave Washington the woman's address in Cambridge and she was immediately arrested. Resuming the role of examining magistrate that he had held in Virginia, the Commander-in-Chief conducted the interrogation himself. The woman was warned that she had been caught trying to send information to the enemy and that the penalty for spying was death. But she was offered her life in exchange for the name of the person who had given her the letter.

Finally, she broke down and said it was Dr. Benjamin Church.

Washington was astounded. Church was not only a member of the Massachusetts Provincial Congress but as Director-General of Hospitals he was the army's top medical officer. He was ordered to come to headquarters and two officers with some experience in deciphering were put to work on the letter.

Church was affability itself. He readily acknowledged that the woman was his mistress and said the letter was intended for his brother who lived in Boston and it contained nothing traitorous. Icily, Washington noted that the letter could have been sent directly to Boston under a flag of truce if it merely concerned personal matters.

The general's worst suspicions were confirmed when the letter was decoded. It contained an account by Church of a recent visit to Philadelphia where Congress was in session. It also contained estimates of strength and readiness of the American forces. "Make use of every precaution," he told his correspondent, to prevent the letter from falling into the wrong hands, "or I perish."

Washington immediately convened a court-martial and expected that Church would quickly be hanged as a spy. But much to his chagrin, it was discovered that in drafting the army's regulations, Congress had overlooked the possibility of espionage. The worst penalty that could be ordered by a court-martial was 39 lashes and dismissal from the service.

Congress appointed a five-man Committee on Spies that included Thomas Jefferson and John Adams "to consider what is proper to be done with persons giving intelligence to the enemy." The committee produced the nation's first Espionage Act, which established the death penalty for spying, and it was enacted August 21, 1776.

But this was too late to apply to Dr. Church. Washington thought it inconceivable that a rascal who had betrayed his country for money should escape the noose, but there was no alternative. Washington turned Church over to the Massachusetts authorities who jailed him without charges. Finally, in 1777, they ordered him to leave the country, never to return. But America's first traitor did not live to collect his reward, for the vessel that was taking him to the West Indies was lost at sea with all hands.

Nathan Miller is at work on a history of American espionage.